

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4854 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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NARANBHAI K PATEL

Versus

G E B  
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Appearance:

MS NIYATI PUJ for Petitioner  
MS MAYA DESAI for the Respondents  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/07/2000

ORAL JUDGEMENT

1. Heard the learned counsel for the parties. On  
29th July, 1991 when this matter has come up in the Court  
for preliminary hearing, the Court has ordered as under :

"Notice returnable on 19/8/1991. Ad interim relief in terms of para 23 (B). Direct service for respondent Nos.2,3 and 4"

After notice on 19th August, 1991, the Special Civil Application was admitted and the interim relief was ordered to be continued and it continues till this day on which fact, the learned counsel for the parties are not at variance.

2. In the Special Civil Application, the petitioner challenges the order or the action of the respondent reverting him from the post of Assistant Operator (Grade-3) to Switch Board Operator (Grade-1). The impugned order has been stayed.

3. Looking to the fact that the petitioner has joined the service of the Board from 1st January, 1970, there may be all possibilities that by now, he would have been retired from the services.

4. Otherwise also, the reply to the Special Civil Application has not been filed by the respondents and as such, whatever the averments made by the petitioner therein, stand uncontroverted. It is a matter of reversion of the petitioner from higher post to lower post and he has for all these years worked on the higher post though under the Court's order. What happened during this period has also not been brought on the record of this Special Civil Application.

5. Ms. Maya Desai orally contended that by mistake the promotion was given to the petitioner and under the impugned order, this mistake has been corrected.

6. I have considered this contention of the learned counsel. It is not the case of the respondents that this order has been passed after giving a notice or an opportunity of hearing to the petitioner. Even if it is taken to be a case of correction of mistake, then as a result of it, the civil consequences may ensue, it is expected from the respondents to follow the basic principles of natural justice. Earlier also, the petitioner has approached to this Court. In paragraph no.15 of the Special Civil Application, the petitioner has given out that in the reply which is submitted by him from time to time to the respondents, he has made specific reference of Circular No.EP/I/PRM/GEN/4350 of 2/11/1983 and stated that this circular has not been followed in large number of cases and promotion of 23 employees who have been promoted to Switch Board Operator

(Grade-2) and Switch Board Operator (Grade-1) on the same day, have been regularised under the order dated 16th June, 1984. It is further being stated by the petitioner that many persons junior to him were promoted to the posts of Asst. Operator (Grade-3). These averments have not been controverted by the respondents.

7. So, the interest of justice will serve in case the Special Civil Application is disposed of in terms that the petitioner is to file a detailed representation to respondent no.1 for the grievances made by him in this Special Civil Application and respondent no.1 shall decide the same within a period of 2 months from the date of receipt thereof. The interim relief which has been granted shall continue till the representation of the petitioner is decided. Liberty is granted to the petitioner for revival of this Special Civil Application in case of any difficulty. The Special Civil Application and Rule stand disposed of accordingly with no order as to costs.

(S.K. Keshote, J.)  
(kamlesh)